



City Dkt 2225-0001
94004.003
PATENT

TECH CENTER 1600/2900

SEP 25 2001

RECEIVED

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on Sept 18, 2001.

9/18/01
Date

Susan LaMont
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

AZPIROZ et al.

Serial No.: 09/502,426

Group Art Unit: 1638

Filing Date: February 11, 2000

Examiner: A. Mehta

Title: *dwf4* POLYNUCLEOTIDES, POLYPEPTIDES AND USES THEREOF

11/K.T.
9/25

Election

RESPONSE TO REQUIREMENT FOR RESTRICTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement dated June 18, 2001. Submitted herewith is a petition for a two month extension of time and appropriate fee, making a response due on or before September 18, 2001. Accordingly, this response is timely filed.

The Examiner has required election of one of the following groups of claims:

Group I. Claims 1-16, 18-35, 38-45, and 49-51, drawn to an isolated dwf4 polynucleotide, a recombinant vector comprising said polynucleotide, a host cell or transgenic plant comprising said vector; a method of modulating a DWF4 polypeptide, said polynucleotide including a dwf4 control element; a method of producing a transgenic plant having an altered phenotype and comprising a transgenic and expressed dwf4 polypeptide;

Group II. Claims 17, 36, and 37, drawn to method for modulating a DWF4 polypeptide wherein the dwf4 polynucleotide is inhibited;

Group III Claims 46-48, drawn to a method for regulating cell cycle of a plant cell;

Group IV Claims 52 and 53, drawn to an isolated DWF4 polypeptide;

Group V Claims 54-55, drawn to an isolated polynucleotide fused to a second nucleic acid molecule; and

Group VI Claims 56 and 57, drawn to a chimeric polypeptide.

Applicants hereby elect to prosecute the claims of Group I, claims 1-16, 18-35, 38-45, and 49-51, **with traverse**.

In support of the restriction requirement, the Examiner asserts that the claims of each group are unrelated. However, it is axiomatic that two criteria must be met for a proper restriction requirement under M.P.E.P. § 803: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. Applicants respectfully submit that the Examiner has not met this burden.

In particular, Applicants note that Groups IV and VI share the same classification (class 530). Groups II and III also share the same classification (class 800). Furthermore, a search of the art for sequences relevant to Group I would necessarily reveal art relevant to the remaining Groups, especially in light of the dependence of Groups II, V and VI claims on Group I claims. Indeed, in view of the close interrelatedness of the claims of each Group, it would not be a serious burden on the Examiner to search and examine the inventions of these Groups together. Accordingly, the claims should be examined together and it would not constitute an undue burden for the Examiner to do so.

Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Respectfully submitted,

Date: Sept 18 2001

By: Dahna S. Pasternak
Dahna S. Pasternak
Registration No. 41,411

ROBINS & PASTERNAK LLP
90 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 325-7812
Fax: (650) 325-7823